

B104 (FORM 104) (08/07)

EDVA

<b>ADVERSARY PROCEEDING COVER SHEET</b> (Instructions on Reverse)		<b>ADVERSARY PROCEEDING NUMBER</b> (Court Use Only)		
<b>PLAINTIFFS</b>	<b>DEFENDANTS</b>			
<b>ATTORNEYS</b> (Firm Name, Address, and Telephone No.)	<b>ATTORNEYS</b> (If Known)			
<b>PARTY</b> (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	<b>PARTY</b> (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee			
<b>CAUSE OF ACTION</b> (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)				
<b>NATURE OF SUIT</b> (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)				
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; border: none;"> <b>FRBP 7001(1) – Recovery of Money/Property</b>  <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property  <input type="checkbox"/> 12-Recovery of money/property - §547 preference  <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer  <input type="checkbox"/> 14-Recovery of money/property - other   <b>FRBP 7001(2) – Validity, Priority or Extent of Lien</b>  <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property   <b>FRBP 7001(3) – Approval of Sale of Property</b>  <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)   <b>FRBP 7001(4) – Objection/Revocation of Discharge</b>  <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)   <b>FRBP 7001(5) – Revocation of Confirmation</b>  <input type="checkbox"/> 51-Revocation of confirmation   <b>FRBP 7001(6) – Dischargeability</b>  <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims  <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud  <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny   <div style="text-align: center;">(continued next column)</div> </td> <td style="width: 50%; vertical-align: top; border: none;"> <b>FRBP 7001(6) – Dischargeability (continued)</b>  <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support  <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury  <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan  <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)  <input type="checkbox"/> 65-Dischargeability - other   <b>FRBP 7001(7) – Injunctive Relief</b>  <input type="checkbox"/> 71-Injunctive relief – imposition of stay  <input type="checkbox"/> 72-Injunctive relief – other   <b>FRBP 7001(8) Subordination of Claim or Interest</b>  <input type="checkbox"/> 81-Subordination of claim or interest   <b>FRBP 7001(9) Declaratory Judgment</b>  <input type="checkbox"/> 91-Declaratory judgment   <b>FRBP 7001(10) Determination of Removed Action</b>  <input type="checkbox"/> 01-Determination of removed claim or cause   <b>Other</b>  <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i>  <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)           </td> </tr> </table>			<b>FRBP 7001(1) – Recovery of Money/Property</b> <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other  <b>FRBP 7001(2) – Validity, Priority or Extent of Lien</b> <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property  <b>FRBP 7001(3) – Approval of Sale of Property</b> <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)  <b>FRBP 7001(4) – Objection/Revocation of Discharge</b> <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)  <b>FRBP 7001(5) – Revocation of Confirmation</b> <input type="checkbox"/> 51-Revocation of confirmation  <b>FRBP 7001(6) – Dischargeability</b> <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny  <div style="text-align: center;">(continued next column)</div>	<b>FRBP 7001(6) – Dischargeability (continued)</b> <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other  <b>FRBP 7001(7) – Injunctive Relief</b> <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other  <b>FRBP 7001(8) Subordination of Claim or Interest</b> <input type="checkbox"/> 81-Subordination of claim or interest  <b>FRBP 7001(9) Declaratory Judgment</b> <input type="checkbox"/> 91-Declaratory judgment  <b>FRBP 7001(10) Determination of Removed Action</b> <input type="checkbox"/> 01-Determination of removed claim or cause  <b>Other</b> <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)
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<input type="checkbox"/> Check if this case involves a substantive issue of state law	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23			
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$			
Other Relief Sought				

**B104 (FORM 104) (08/07), Page 2**

<b>BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES</b>		
NAME OF DEBTOR		BANKRUPTCY CASE NO.
DISTRICT IN WHICH CASE IS PENDING	DIVISION OFFICE	NAME OF JUDGE
<b>RELATED ADVERSARY PROCEEDING (IF ANY)</b>		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF)		
DATE		PRINT NAME OF ATTORNEY (OR PLAINTIFF)

**INSTRUCTIONS**

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also complete and file Form 104, the Adversary Proceeding Cover Sheet, \*unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

**Plaintiffs and Defendants.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

**Attorneys.** Give the names and addresses of the attorneys, if known.

**Party.** Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

**Demand.** Enter the dollar amount being demanded in the complaint.

**Signature.** This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

\*Per LBR 7003-1, in the EDVA, a properly completed Adversary Proceeding Cover Sheet is required.

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION**

IN RE:

WILLIAM A. WHITE,

Debtor.

Case No. 08-71107-WFS

Chapter 11

UNNAMED CITIZEN A,

T.R., a minor by and through his next friend,  
Unnamed Citizen A,

UNNAMED CITIZEN B,

T.M., a minor by and through her next friend,  
Unnamed Citizen B,

A.M., a minor by and through his next friend,  
Unnamed Citizen B,

UNNAMED CITIZEN C,

R.C., a minor by and through her next friend,  
Unnamed Citizen C

Z.C., a minor by and through her next friend,  
Unnamed Citizen C,

UNNAMED CITIZEN D,

J.M., a minor by and through his next friend,  
Unnamed Citizen D,

and

J.M., a minor by and through his next friend,  
Unnamed Citizen D,

Plaintiffs,

v.

WILLIAM A. WHITE,

Debtor/Defendant.

Adv. Pro No. \_\_\_\_\_

**COMPLAINT TO DETERMINE NONDISCHARGEABILITY OF DEBT**

Unnamed Citizen A, T.R., Unnamed Citizen B, T.M., A.M., Unnamed Citizen C, R.C., Z.C., Unnamed Citizen D, J.M. and J.M. (hereinafter “Unnamed Citizens” or “Plaintiffs”), by and through their undersigned counsel, hereby file this adversary proceeding against William A. White (hereinafter “Defendant”). Plaintiffs seek a determination of the dischargeability of certain debts pursuant to 11 U.S.C. § 523(a)(6) and Rule 7001(6) of the Federal Rules of Bankruptcy Procedure. In support thereof, Plaintiffs state as follows:

### **I. NATURE OF ACTION**

1. This adversary proceeding to declare debts non-dischargeable relates to the Chapter 11 case of Debtor/Defendant William A. White (“Defendant” or “White”), Case No. 08-71107-WFS, pending in the United States Bankruptcy Court for the Western District of Virginia.

2. The Unnamed Citizens are four American Citizens of African descent who seek to vindicate their right to live in their homes and access the courts free from the fear that White, who is a self-proclaimed Neo-Nazi, has sought to instill in them. In order to reduce the potential for violence against them and their families, and to comply with applicable rules of court, the Plaintiffs bring this lawsuit under pseudonyms.

3. The underlying liabilities and debts sought to be declared non-dischargeable by this Complaint involve acts of racial discrimination, harassment and intimidation under the federal Fair Housing Act, 42 U.S.C. §§ 3601—3631 (hereinafter, the “FHA”), the Virginia Fair Housing Law, Va. Code Ann. §§ 36-96.1—36-96.23 (Michie 2007), Va. Code Ann. § 8.01-42.1 (Michie 2007), and Virginia common law.

### **II. JURISDICTION AND VENUE**

4. This Court has jurisdiction over the subject matter of this Complaint pursuant to 28 U.S.C. §§ 1334 and 157.

5. Venue in this adversary proceeding is proper in the Western District of Virginia pursuant to 28 U.S.C. § 1409(a).

6. This adversary proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I).

7. This Court has personal jurisdiction over the Defendant pursuant to Federal Rule of Bankruptcy Procedure 7004(f).

### **III. FACTS**

#### **A. Parties**

8. The Unnamed Citizens include four African American women and their minor children who, during all relevant times, resided with their children in a thirty-unit residential rental complex located on 15 ½ Street in the City of Virginia Beach (hereinafter, the “Apartments”).

9. Defendant William A. White (“White”) is a resident of the City of Roanoke, Virginia.

#### **B. The Unnamed Citizens’ Fair Housing Complaints**

10. Beginning in September 2006 and continuing until February 2007, each of the Unnamed Citizens filed with the United States Department of Housing and Urban Development (“HUD”) fair housing complaints (the “Complaints”) against their landlord, John Crockett Henry and his closely-held limited liability company, Henry LLC of Virginia Beach (together, “Henry”) pursuant to § 3610(a) of the Federal Fair Housing Act, 42 U.S.C. §§ 3601-3631 (the “FHA”).

11. The Unnamed Citizens’ fair housing Complaints alleged, *inter alia*, that Henry discriminated against them on the basis of race in connection with the terms and conditions of

housing in violation of § 3604 of the FHA. The Complaints also alleged that Henry retaliated against the Unnamed Citizens in violation of § 3617 of the FHA.

12. HUD investigated the Complaints and, on April 26, 2007, issued a Determination of Reasonable Cause. HUD concluded that Henry violated the FHA with respect to the Unnamed Citizens. On April 27, 2007, HUD issued a Charge of Discrimination against Henry charging him with “engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(a), 3604(b), 3604(c) and 3617....”

13. On May 18, 2007, the Unnamed Citizens elected to pursue the claims at issue in the Charge of Discrimination against Henry in a federal court civil action pursuant to § 3612(a) of the FHA. Accordingly, as directed by § 3612(o)(1) of the FHA, the United States filed a complaint in the United States District Court for the Eastern District of Virginia, Norfolk Division, against Henry under the style, United States of America, et al. v. Henry, et al., Civil Action No. 2:07cv342. The Unnamed Citizens intervened in the case “as of right” pursuant to § 3612(o)(2) of the FHA.

**C. White and the Neo-Nazi Party Intimidate the Unnamed Citizens**

14. On May 25, 2007, just one week after making their election to proceed in federal court against Henry, each of the Unnamed Citizens received a threatening, intimidating, and racist letter from White on Neo-Nazi Party letterhead. The letter, dated May 23, 2007, was mailed by White from Roanoke to the Unnamed Citizens’ home addresses at the Apartments in Virginia Beach. A true and genuine copy of the letter which was sent to each unnamed citizen is attached to this Complaint as Exhibit A.

15. In his letter, White sought to intimidate, scare and threaten the Unnamed Citizens from pursuing their rights under the FHA. He stated in his letter, in full, the following:

Whiny Section 8 Nigger  
15 ½ St Apartments  
Virginia Beach, VA

**Re: Your complaint against Henry LLC**

Dear Nigger Tenant:

I read today of your complaint against James Crockett Henry and Henry LLC. I do not know Mr. Henry, but I do know your type of slum nigger, and I wanted you to know that your actions have not been missed by the white community.

For too long, niggers like you have been allowed to get one over on the white man. You won't work. You won't produce. You breed and eat and turn the world around you into a filthy hole, but you won't do anything to earn or deserve the life you live. Niggers like you are nothing new. All of Africa behaves as you do - with the difference that, there, there is no white man to exploit, only brutal niggers dictators to give the lot of you the kind of government you deserve.

You may get one over on your landlord this time, and you may not. But know that the white community has noticed you, and we know that you are and will never be anything other than a dirty parasite - and that our patience with you and the government that coddles you runs thin.

Sincerely,

[signature]

Bill White, Commander  
American National Socialist Workers' Party  
PO Box 8601  
Roanoke, VA 24014

(Ex. A.)

16. Enclosed in the package with White's letter was a magazine, the cover of which showed a black child holding an automatic rifle with the caption, "The Negro Beast." Page two of the magazine described what happened to a Roanoke Times columnist who, like the Unnamed Citizens, expressed views contrary to those of the Neo-Nazi Party. The Neo-Nazi Party "posted his home address and phone number online. Bomb threats followed, and his house had to be evacuated."

17. In the days following the tenants' receipt of White's letter, White boasted about his conduct in numerous internet postings. In one such posting, White explained the purpose of his intimidating letter as being akin to the tactics of the Ku Klux Klan: "I just followed an old Southern maxim, showed the spooks some haints, and let them go crazy with their imagination and tall tales. LOL."

18. White and the Neo-Nazi Party intended White's letter to threaten, intimidate and harm the Unnamed Citizens in the exercise of their fair housing and other civil rights. The letter had that effect.

19. Upon receiving White's letter, the adult Unnamed Citizens experienced extreme fear and anxiety over their safety and the safety of their minor children, each of whom was under the age of ten years. They feared that the "white community" referred to in White's letter would seek to impose violent repercussions on them for pursuing their fair housing Complaints. They feared that they and their children might be subjected to the sort of "brutality" referred to in White's letter. Some of the Unnamed Citizens, as well as other residents of the Apartments, left the Apartments and temporarily sought shelter elsewhere so as to avoid any repercussions from White or other members of the "white community" opposed to the Unnamed Citizens' fair housing Complaints, thus suffering disruption of their lives in the process. Those who had nowhere to go remained in the Apartments and lived in fear.

20. The Unnamed Citizens' fear and anxiety persisted for a prolonged period of time, during which the Unnamed Citizens experienced extreme anxiety and an overall sense of fear for their safety and the safety of their children.

21. White's conduct described herein was done within the scope of his authority as an agent of the Neo-Nazi Party and with the Neo-Nazi Party's approval.



22. In sending the letter attached hereto as Exhibit A to the Unnamed Citizens, White and the Neo-Nazi Party acted willfully, maliciously, wantonly, oppressively, in conscious disregard for the Unnamed Citizens' rights and with the intent to cause harm to the Unnamed Citizens. Moreover, since sending the letter to the Unnamed Citizens, White has expressed pleasure with his conduct and the harm he caused the Unnamed Citizens.

**IV. CAUSE OF ACTION: 11 U.S.C. § 523(a)(6)  
WILLFUL AND MALICIOUS INJURY TO PLAINTIFFS**

23. Plaintiffs reallege and reincorporate paragraphs 1-22 of the Complaint as if set forth herein.

24. White's and the Neo-Nazi Party's conduct described herein gives rise to numerous causes of action and debts in favor of the Unnamed Citizens and against White and the Neo-Nazi Party including the following:

a. White and the Neo-Nazi Party are liable and indebted to the Unnamed Citizens under the FHA including, but not limited to, § 3617 of the FHA, which makes it "unlawful for any person to intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected [by § 3604 of the FHA]."

b. White and the Neo-Nazi Party are liable and indebted to the Unnamed Citizens under the Virginia Fair Housing Law, Va. Code Ann. §§ 36-96.1—36-96.23 (Michie 2008), including, but not limited to, § 36-96.5, which provides that, "[i]t shall be an unlawful discriminatory housing practice for any person to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or

on the account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this chapter.”

c. White and the Neo-Nazi Party are liable and indebted to the Unnamed Citizens under Va. Code § 8.01-42.1, which provides that, “[a]n action for injunctive relief or civil damages, or both, shall lie for any person who is subjected to acts of (i) intimidation or harassment or (ii) violence directed against his person; or (iii) vandalism directed against his real or personal property, where such acts are motivated by racial, religious, or ethnic animosity.” Va. Code § 8.01-42.1(A).

d. White and the Neo-Nazi Party are liable and indebted to the Unnamed Citizens under Virginia common law for intentional infliction of emotional distress because their act of intimidation against the Unnamed Citizens was intentional, outrageous and intolerable and because their conduct caused the Unnamed Citizens to suffer severe emotional distress.

25. Under the foregoing claims, the Unnamed Citizens are entitled to recover compensatory and punitive damages against White and the Neo-Nazi Party and, in addition, are entitled to their costs and attorneys fees incurred.

26. Defendant’s action was wrongful, willful, malicious, intentional and/or in violation of substantive rights of the Plaintiffs.

27. Defendant’s conduct as described above constitutes a willful and malicious injury to Plaintiffs as those terms are used in 11 U.S.C. § 523(a)(6).

28. Defendant’s and the Neo-Nazi Party’s conduct was intentional, done without any justification, was intended to cause harm to the Unnamed Citizens, and did cause harm to them.

29. Defendant is indebted to Plaintiffs in the amounts described above.

30. Accordingly, Plaintiffs claims against Defendant constitute claims for willful and malicious injury that are nondischargeable debts pursuant to 11 U.S.C. § 523(a)(6), and the

Unnamed Citizens seek a determination that the debts arising from these claims are non-dischargeable debts.

#### **V. PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff respectfully requests that the Court:

1. Find that William A. White is indebted to Plaintiffs for compensatory damages and punitive damages in an amount that is just and reasonable under the circumstances plus attorneys' fees and costs (the "Debt"); and
2. Find the Debt is a nondischargeable debt pursuant to 11 U.S.C. § 523(a)(6); and
3. Grant such other relief as is just and proper.

Respectfully submitted, this 19th day of September 2008.

UNNAMED CITIZEN A, T.R., UNNAMED  
CITIZEN B, T.M., A.M., UNNAMED CITIZEN C,  
R.C., Z.C., UNNAMED CITIZEN D, J.M. and J.M.

By: /s/ Vivieon E. Kelley  
Counsel  
Vivieon E. Kelley, Esq. (Va. Bar No. 44230)  
Troutman Sanders LLP  
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*Counsel for Plaintiffs*

1986272

**EXHIBIT A**

AMERICAN  
**NATIONAL SOCIALIST**  
WORKERS PARTY

**May 23, 2007**

**Whiny Section 8 Nigger  
15 1/2 St Apartments  
Virginia Beach, VA**

**Re: Your complaint against Henry LLC**

**Dear Nigger Tenant:**

I read today of your complaint against James Crockett Henry and Henry LLC. I do not know Mr Henry, but I do know your type of slum nigger, and I wanted you to know that your actions have not been missed by the white community.

For too long, niggers like you have been allowed to get one over on the white man. You won't work. You won't produce. You breed and eat and turn the world around you into a filthy hole, but you won't do anything to earn or deserve the life you live. Niggers like you are nothing new. All of Africa behaves as you do -- with the difference that, there, there is no white man to exploit, only brutal niggers dictators to give the lot of you the kind of government you deserve.

You may get one over on your landlord this time, and you may not. But know that the white community has noticed you, and we know that you are and will never be anything other than a dirty parasite -- and that our patience with you and the government that coddles you runs thin.

Sincerely,



**Bill White, Commander  
American National Socialist Workers' Party  
PO Box 8601  
Roanoke, VA 24014**